

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

JEFFREY E. OLSON,

Plaintiff,
v.

JAMES SCHWOCHERT,

Defendant.

ORDER

18-cv-666-jdp

On October 24, 2018, the court entered an order giving plaintiff Jeffrey E. Olson an extension of time until November 15, 2018, to submit the \$12.28 initial partial payment. Now Olson has filed a motion for substitution of Magistrate Judge Peter Oppeneer. Dkt. 10. In his motion, Olson also requests that the court set a hearing for contempt against Waupun Correctional Institution officials because they are refusing to submit the \$12.28 initial partial payment to the court.

It is not necessary to find prisoner administrators to be in contempt because there is a simpler solution. Based on the documentation that Olson has provided to the court regarding his attempts at submitting the \$12.28 initial partial payment, it appears that Olson presently has no means with which to pay the filing fee or to make an initial partial payment. Under these circumstances, Olson is not required to make an initial partial payment. 28 U.S.C. § 1915(b)(4). *See also Sultan v. Fenoglio*, 775 F.3d 888, 890 (7th Cir. 2015) (concluding that prisoner had no means to pay initial partial payment when prison administrators failed to comply with prisoner's request to forward payment to the court). But Olson is advised that the full \$350 filing fee for indigent litigants remains Olson's obligation,

even if this court ultimately determines that Olson's complaint cannot go forward. *See* 28 U.S.C. § 1915A.

Because Olson is a prisoner, Olson is subject to the Prison Litigation Reform Act, which requires the court to screen the complaint to determine whether any portion is frivolous or malicious, fails to state a claim on which relief may be granted or seeks monetary relief from a defendant who is immune from such relief. I will screen the complaint in a separate order.

As for Olson's request for substituting Magistrate Judge Oppeneer, he provides no grounds for that request, so I will deny it.

ORDER

IT IS ORDERED that:

1. Plaintiff Jeffrey E. Olson's motion for substitution of judge, Dkt. 10, is DENIED.
2. I find that Olson has no means to pay his initial partial payment of the filing fee. However, Olson remains responsible for paying the \$350 filing fee.
3. No further action will be taken in this case until the court has screened the complaint as required by the Prison Litigation Reform Act, 28 U.S.C. § 1915(e)(2). Once the screening process is complete, a separate order will issue.

Entered this 13th day of November, 2018.

BY THE COURT:

/s/

JAMES D. PETERSON
District Judge